

COLORADO RIVER BASINWIDE SALINITY CONTROL  
PROGRAM UPSTREAM OF IMPERIAL DAM

---

JUNE 7, 1995.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

---

Mr. YOUNG of Alaska, from the Committee on Resources,  
submitted the following

REPORT

[To accompany S. 523]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the Act (S. 523) to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the Act do pass.

PURPOSE OF THE BILL

The purpose of S. 523 is to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner.

BACKGROUND AND NEED FOR LEGISLATION

The Colorado River is the lifeline of the Southwest. The River extends for 1,450 miles, originating in the States of Wyoming, Colorado, and Utah, and ending in Mexico, where the River empties into the Gulf of California. The River drains approximately one-twelfth of the land area of the contiguous United States, providing a key water supply to an otherwise largely arid region.

Salinity in the Colorado River increases dramatically as the River makes its way along its 1,400-mile journey. Almost half of the salinity is caused by nature when groundwater flows through salt formations and enters the River or when saline springs con-

tribute salt to the River or its tributaries. Another major contributor to the River's salinity is the use of water for agriculture. Diversions reduce the volume of water available, thereby raising its salinity concentration, and return flows from agricultural lands pick up salt from the soil. Public domain lands under the jurisdiction of the Bureau of Land Management (BLM) also contribute an estimated 700,000 tons of salt annually, and in 1984 Congress directed the BLM to take actions to reduce salinity from BLM lands. The Bureau of Reclamation estimates that salinity in the Colorado River corrodes water pipes and damages crops at an annual cost of about \$1 billion.

Consumptive use of Colorado River water in the United States and Mexico now totals approximately 13 million acre-feet of water annually. The River provides irrigation water to almost 2 million acres of land, and is a source of municipal and industrial water supplies to about 20 million people.

The Colorado River Compact, negotiated in 1922 by all seven Basin States, divided the River into two basins (Upper Basin and Lower Basin), with each Basin receiving the right to develop and consumptively use in perpetuity 7.5 million acre-feet of water annually from the Colorado River system (although all of that development has not yet occurred). Water users in the Lower Basin are concerned about the higher salinity of the Colorado River water they receive, in part because it reduces their ability to reclaim the water for reuse. In addition, the 1944 U.S.-Mexican Water Treaty committed 1.5 million acre-feet annually to users in Mexico. Minute Number 242 of the 1944 Treaty requires water delivered to Mexico to be of a certain quality. Under the Treaty, the quantity and quality of water to be delivered to Mexico is a Federal obligation, and the cost is not to be borne by the seven Basin States.

To address the ongoing salinity problem, the Colorado River Basin Salinity Control Act was enacted in 1974. Title I of the Act addressed the Mexican Treaty obligations by authorizing the Yuma Desalting Plant, the Wellton-Mohawk Irrigation and Drainage District irrigation drainage reduction program, concrete lining of the Coachella Canal in California (allowing the United States to use the conserved water to replace drainage water bypassed to Mexico), and a well field in Arizona known as the Protective and Regulatory Pumping Unit. Title II of the Act, which S. 523 seeks to amend, authorized the investigation and construction of salinity control projects in the Upper Basin to protect the quality of water delivered to the Lower Basin.

#### COMMITTEE ACTION

S. 523 passed the Senate on April 27, 1995, and was received in the House of Representatives on May 1, 1995. S. 523 was referred to the Committee on Resources, and within the Committee, to the Subcommittee on Water and Power Resources.

The companion House bill, H.R. 930, was introduced on February 14, 1995, by Congressman Hansen; the bill to date has 11 cosponsors. On May 11, 1995, the Subcommittee on Water and Power Resources held a hearing on H.R. 930, where the Bureau of Reclamation testified in support of the legislation, but suggested two possible amendments which were not subsequently adopted by the

Committee. Non-Federal witnesses also expressed their support for the new program authorized in H.R. 930.

On May 24, 1995, the Full Resources Committee met to consider S. 523, at which time the bill was discharged from the Subcommittee on Water and Power Resources by unanimous consent. No amendments were offered, and the bill was ordered favorably reported by voice vote to the House of Representatives, in the presence of a quorum.

#### SECTION-BY-SECTION ANALYSIS

S. 523 would amend section 202(a) of the Colorado River Basin Salinity Control Act to insert a new paragraph (6) that authorizes a program of salinity control in addition to the specific projects in the existing statute. The new program would enable the Bureau of Reclamation to accept proposals from non-Federal entities for salinity control measures, and then provide funding to the most cost-effective proposals. S. 523 authorizes \$75 million for activities authorized under subsection 202(a), including constructing the works described in the new paragraph (6).

S. 523 mirrors the flexibility already provided the U.S. Department of Agriculture in 1984 for its salinity control program. The Committee notes that the current salinity control program under Title II of the 1974 law is inflexible and relies on expensive hardware solutions to water quality problems. S. 523 will for the first time allow private companies and other organizations to participate in salinity control in the Colorado River Basin. Creative solutions to complex water management problems should be encouraged under this legislation.

The bill specifies that salinity control solutions under this new program must meet a test of cost-effectiveness. The Committee has been advised by the Bureau of Reclamation that new guidelines for evaluating proposed salinity control measures will be proposed for public comment. Every effort should be made by the Bureau to ensure that innovative solutions to salinity control are encouraged. Cost-effectiveness guidelines should not unreasonably exclude projects just because they do not meet traditional criteria for salinity control projects.

The bill specifically provides that the Secretary may approve salinity control projects to reduce salinity from a variety of sources. The Committee expects that the Bureau of Reclamation's new guidelines for implementing salinity control measures will not unreasonably preclude innovative solutions to the Basin's salinity problems. If non-structural solutions to salinity control problems exist, they should be considered. S. 523 should not constrain the Bureau from considering a variety of solutions to water quality problems in the Colorado River Basin.

The bill further provides that the Secretary may directly involve non-Federal entities in carrying out the purposes of the salinity control program. In testimony before the Water and Power Resources Subcommittee, the Bureau of Reclamation testified that an amendment to the bill was needed to provide for the direct involvement of other Federal agencies. While the Committee agrees that the involvement of other Federal agencies may be appropriate, the Committee believes that the Bureau of Reclamation already has

sufficient legislative authority to allow it to pursue the necessary interagency agreements or other arrangements it may need.

The Committee notes that this new program is in addition to other activities by the Department of the Interior, such as long-term contracts undertaken with non-Federally financed facilities that would normally be undertaken with operation and maintenance appropriations. This new program is directed at capital improvements, not operations.

Non-Federally financed projects as authorized by Section 202(a) of the Colorado River Basin Salinity Control Act require no Federal capital construction funds. Contracts between the Federal Government and the owners of a non-Federally financed project for salinity control would meet the new requirements set forth in Section 202(a)(6).

The Committee notes that an issue was raised in a submittal for the record from the Coachella Valley Water District regarding the application of the Reclamation Reform Act of 1982 (RRA) to actions taken under the Colorado River Basin Salinity Control Act.

In 1982, the Solicitor's Office at the Department of the Interior issued an opinion, stating in part that "(t)itle I [of the Colorado River Basin Salinity Control Act] improvements are not made subject to reclamation law." Subsequently, a field solicitor's memorandum for the Lower Colorado River Region of the Bureau of Reclamation suggested that actions taken under the Salinity Control Act could be subject to the RRA. The Committee believes this discrepancy should be clarified.

Simply stated, RRA requirements are not necessarily applicable to contracts entered into pursuant to the Salinity Control Act. The RRA requirements cover only certain water service and repayment contracts. The example presented by Coachella is not one of these types of contracts—under the canal lining contract with the United States, the district is not provided with a delivery of project irrigation water for a fixed or perpetual period of time, nor is the district required to repay to the United States a fixed charge.

If the Department of the Interior has subjected contractors to RRA requirements in otherwise non-applicable contracts or contract amendments made under the authority of the Salinity Control Act, the Committee urges the Department to take prompt, necessary action to clarify that the RRA does not apply. As long as the salinity control program continues, water users and other entities should not be discouraged from participating in this important program because of the possibility of RRA application.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of

S. 523 will have no significant inflationary impact on prices and costs in the operation of the national economy.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out S. 523. However, clause 7(d) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, S. 523 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of S. 523.

3. With respect to the requirement of clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for S. 523 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 31, 1995.*

Hon. DON YOUNG,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 523, an act to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner, and for other purposes.

Enactment of S. 523 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM  
(For June E. O'Neill, Director).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 523.

2. Bill title: An act to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner, and for other purposes.

3. Bill status: As ordered reported by the House Committee on Resources on May 24, 1995.

4. Bill purpose: S. 523 would authorize appropriations of \$75 million for the Bureau of Reclamation to develop a new program to reduce salinity in the Colorado River basin from saline springs, leaking wells, irrigation sources, industrial sources, erosion of public and private land, or other sources. The authorized funds also could be used to cover costs associated with ongoing salinity control projects. The federal government would be reimbursed over time for 30 percent of any appropriations provided for S. 523 through the Upper Colorado River Basin Fund (UCRBF) and the Lower Colorado River Basin Development Fund (LCRBDF), which collect surcharges from power users through the Western Area Power Administration.

5. Estimated cost to the Federal Government: Based on information from the Department of the Interior, CBO estimates that the \$75 million in appropriations authorized by S. 523 would be used entirely for new salinity control projects. We expect that funding for these new projects would be required beginning in fiscal year 1996, and that outlays would reflect historical spending patterns for similar construction projects. Estimated outlays for these projects would total \$52 million over the 1996–2000 period, as shown in the following table. Because of the anticipated length of the project, additional outlays would continue beyond fiscal year 2000.

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000
Authorization of appropriations .....	6	8	10	15	15
Estimated outlays .....	5	8	10	14	15

The costs of this bill fall within budget function 300.

The act's reimbursement requirements would not affect outlays over the 1996–2000 period. Fifteen percent of the reimbursable portion of the appropriation would be paid from collections to the UCRBF within 50 years after a project becomes operational, and the remaining 85 percent of the reimbursable costs would be paid from collections to the LCRBDF as costs for construction are incurred. To cover the reimbursable costs allocated to the UCRBF, CBO expects that the federal government would increase its power surcharge rate beginning in fiscal year 2002. We expect that no rate change would be made to cover costs allocated to the LCRBDF because this fund is currently running an annual surplus of about \$9 million.

6. Comparison with spending under current law: None.

7. Pay-as-you-go considerations: None.

8. Estimated cost to State and local governments: None.

9. Estimate comparison: None.

10. Previous CBO estimate: On April 3, 1995, CBO prepared an estimate of S. 523, a bill to amend the Colorado River Basin Salin-

ity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner, as ordered reported by the Senate Committee on Energy and Natural Resources on March 29, 1995. That version of S. 523 was identical to this version and the cost estimates are the same.

11. Estimate prepared by: Theresa Gullo.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

#### DEPARTMENTAL REPORTS

The Committee has received no departmental reports on S. 523.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

#### COLORADO RIVER BASIN SALINITY CONTROL ACT

\* \* \* \* \*

#### TITLE II—MEASURES UPSTREAM FROM IMPERIAL DAM

\* \* \* \* \*

SEC. 202. (a) The Secretary is authorized to construct, operate, and maintain [the following salinity control units] *the following salinity control units and salinity control program* as the initial stage of the Colorado River Basin salinity control program[.]:

(1) \* \* \*

\* \* \* \* \*

(6) *A basinwide salinity control program that the Secretary, acting through the Bureau of Reclamation, shall implement. The Secretary may carry out the purposes of this paragraph directly, or may make grants, commitments for grants, or advances of funds to non-Federal entities under such terms and conditions as the Secretary may require. Such program shall consist of cost-effective measures and associated works to reduce salinity from saline springs, leaking wells, irrigation sources, industrial sources, erosion of public and private land, or other sources that the Secretary considers appropriate. Such program shall provide for the mitigation of incidental fish and wildlife values that are lost as a result of the measures and associated works. The Secretary shall submit a planning report concerning the program established under this paragraph to the appropriate committees of Congress. The Secretary may not expend funds for any implementation measure under the program established under this paragraph before the expiration of a 30-day period beginning on the date on which the Secretary submits such report.*

(b) In implementing the units authorized to be constructed pursuant to subsection (a), the Secretary shall carry out the following directions:

(1) \* \* \*

\* \* \* \* \*

(4) In implementing the [units authorized to be constructed pursuant to paragraphs (1), (2), (3), (4), and (5)] *units authorized to be constructed or the program pursuant to paragraphs (1), (2), (3), (4), (5), and (6)* of subsection (a), the Secretary shall comply with procedural and substantive State water laws.

\* \* \* \* \*

SEC. 205. (a) The Secretary shall allocate the total costs (excluding costs borne by non-Federal participants pursuant to section 202(c)(2)(C)) of the on-farm measures authorized by section 202(c), of all measures to replace incidental fish and wildlife values foregone, and of each unit or separable feature thereof authorized by section 202(a) of this title, as follows:

(1) In recognition of Federal responsibility for the Colorado River as an interstate stream and for international comity with Mexico, Federal ownership of the lands of the Colorado River Basin from which most of the dissolved salts originate, and the policy embodied in the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816), 75 per centum of the total costs of construction, operation, maintenance, and replacement of each unit or separable feature thereof authorized by section 202(a) (1), (2), and (3), including 75 per centum of the total costs of construction, operation, and maintenance of the associated measures to replace incidental fish and wildlife values foregone, 70 per centum of the total costs of construction, operation, maintenance, and replacement of each unit, or separable feature thereof [authorized by section 202(a) (4) and (5)] *authorized by paragraphs (4) through (6) of section 202(a)*, including 70 per centum of the total costs of construction, operation, and maintenance of the associated measures to replace incidental fish and wildlife values foregone, and 70 per centum of the total costs of implementation of the on-farm measures authorized by section 202(c), including 70 per centum of the total costs of the associated measures to replace incidental fish and wildlife values foregone, shall be nonreimbursable. The total costs remaining after these allocations shall be reimbursable as provided for in paragraphs (2), (3), (4), and (5), of section 205(a).

\* \* \* \* \*

(4)(i) Costs of construction and replacement of each unit or separable feature thereof authorized by [sections 202(a) (4) and (5)] *paragraphs (4) through (6) of section 202*, costs of construction of measures to replace incidental fish and wildlife values foregone, when such measures are a part of the on-farm measures authorized by section 202(c) of the units authorized by [sections 202(a) (4) and (5)] *paragraphs (4) through (6) of section 202*, and costs of implementation of the on-farm measures authorized by section 202(c) allocated to the upper basin and to the lower basin under section 205(a)(2) of this title shall



be repaid as provided in subparagraphs (ii) and (iii), respectively, of this paragraph.

\* \* \* \* \*

SEC. 208. (a) \* \* \*

\* \* \* \* \*

*(c) In addition to the amounts authorized to be appropriated under subsection (b), there are authorized to be appropriated \$75,000,000 for subsection 202(a), including constructing the works described in paragraph 202(a)(6) and carrying out the measures described in such paragraph. Notwithstanding subsection (b), the Secretary may implement the program under paragraph 202(a)(6) only to the extent and in such amounts as are provided in advance in appropriations Acts.*

\* \* \* \* \*